HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 3681 OF 1995

DATE: 23.1.2007

Between:

P. Rasool, S/o Sri P. Allabakah, aged about 48 years, Occupation: Mechanic, R/o Anantapur, Anantapur District and eleven others.

...Petitioners

AND

1.The Regional Manager, APSRTC, Anantapur Region, Anantapur District and four others.

....Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 3681 OF 1995

ORAL ORDER:

This Writ Petition is filed questioning the proceedings of the first respondent dated 12.4.1994, whereby, respondents 4 and 5 in the Writ Petition were promoted to the post of leading hands under Regulation 30 of the APSRTC Employees (Recruitment) Regulations 1966, it was ordered that they would take seniority in between serial No. 19 and 20 of the seniority list of leading hands published through Office Notification No. E2/541(10)/88-DVM'A' dated 7.11.1998 and that they were deemed to have been promoted to the post of leading hand with effect from 31.10.1984 notionally, without any monetary benefits in terms of the letter of Chief Manager (P), Hyderabad, vide proceedings dated 14.4.1992 and 16.2.1994. Respondents 4 and 5, who were transferred to Chittoor Division with protection of seniority were given notional seniority in the above category and to that effect an amendment was made to the final seniority list. Accordingly, the seniority of the respondents 4 and 5 was reckoned including the service rendered by them at Chittoor, wherein they were working prior to their transfer.

In the affidavit filed in support of the writ petition, it is stated that respondents 4 and 5 were transferred to Anantapur Division at their request and it was made clear that they would take last rank among the Grade II mechanics in the Division. The provisional

seniority list and the final seniority list as on 1.4.1993 also shows respondents 4 and 5 as juniors to the petitioners. It is also stated that in terms of the rules, the petitioners are seniors to respondents 4 and 5 and they ought to have been considered for promotion, as leading hands prior to respondents 4 and 5 and that the impugned order promoting respondents 4 and 5, as leading hands was contrary to the regulations.

Neither the respondent-Corporation nor respondents 4 and 5 have chosen to file a counter affidavit in this regard.

Heard Sri S. Ramakrishna, learned counsel appearing for the petitioner and Sri P. Vinayaka Swamy, leanred Standing counsel for the respondent-Corporation.

In the absence of the counter affidavit, the averments in the affidavit, filed in support of the Writ Petition, must necessarily be accepted. It is also not disputed by the learned Standing Counsel that the departmental promotion Committee is required to consider candidates for promotion on the basis of their seniority. Since the petitioners herein are seniors to respondents 4 and 5, they ought to have been considered for promotion prior to respondents 4 and 5. The action of the respondents in including the service rendered by the respondents 4 and 5, at Chittoor Division, though they had been transferred to Anantapur Division at their request, with a specific condition that they would take last rank in the seniority list of Mechanics Grade II, is illegal. The impugned order promoting respondents 4 and 5, as leading hands is accordingly quashed. Respondents are directed to consider the case of the petitioners for promotion as leading hands in accordance with the APSRTC Regulations.

The Writ Petition is accordingly allowed. However, in the circumstances, without costs.

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RAMESH RANGANATHAN
, J

Dated: 23.1.2007
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